

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

LESLIE PARDUE

Case No. C-3-06-081

Plaintiff,

Judge Thomas M. Rose

-v-

WAL-MART STORES, INC., et al.,

Defendants.

ENTRY AND ORDER GRANTING PARDUE'S AMENDED MOTION TO RECONSIDER (Doc. #24); GRANTING ADDITIONAL LIMITED DISCOVERY AND EXTENDING DATE TO RESPOND TO WAL-MART'S MOTION FOR SUMMARY JUDGMENT TO JANUARY 3, 2008

Now before the Court Plaintiff Leslie Pardue's ("Pardue's") Motion To Reconsider this Court's Order denying him an extension of time to conduct discovery and respond to Wal-Mart's pending Motion for Summary Judgment. (Doc. #24.) This Court denied Pardue's third request for an extension of time to conduct discovery and respond to Wal-Mart's pending Motion for Summary Judgment for lack of good cause. (Doc. #22.)

Pardue has now obtained an attorney, although he waited until two days before the response was due, and has now offered a reason for the extension. Pardue wants additional time because he has obtained a summary report from the Miami Township Police Department and wishes to obtain and study each police report identified on the summary.

PROCEDURAL BACKGROUND

On June 1, 2007, the deadline for filing motions not directed to the pleadings, Wal-Mart filed a Motion for Summary Judgment. (Doc. # 13.) Rather than responding, on July 6, 2007, Pardue filed a *pro se* motion to dismiss his legal counsel. (Doc. #14.)

Pardue's motion to dismiss his legal counsel was filed eleven days after the deadline for responding to Wal-Mart's Motion for summary judgment. However, Wal-Mart did not object to Pardue's motion but requested that Pardue be given thirty days to obtain new legal counsel or inform the Court of his intention to proceed *pro se*. (Doc. #15.)

The Court subsequently granted Pardue's motion to dismiss his legal counsel. (Doc. #16.) Pardue was given until not later than forty-five days after entry of the Court's order on July 9, 2007, to obtain legal counsel **and** to file a response to Wal-Mart's pending Motion for Summary Judgment. (Id.) Pardue was further informed that failure to do so may result in sanctions up to and including dismissal of his lawsuit. (Id.)

On August 24, 2007, the forty-sixth day after entry of the Order granting his motion to dismiss his legal counsel, Pardue filed a *pro se* motion to dismiss that was overruled because Pardue failed to comply with this Court's July 9 Order and was not diligent in prosecuting his action. Further, Pardue offered no explanation for the need to take a dismissal.

In the interest of justice and in an attempt to adjudicate Pardue's claim on the merits, Pardue was given one more opportunity to respond to Wal-Mart's Motion for Summary Judgment. He, or his chosen counsel, was given until not later than October 25, 2007, to respond to Wal-Mart's pending Motion for Summary Judgment and the Court indicated that no further extensions would be granted and a response that is not timely filed would not be considered.

Two days before his response was due, Pardue elected to retain new counsel. His new counsel entered an appearance and requested an extension of time until January 3, 2008, to respond to Wal-Mart's Motion for Summary Judgment.

This Court had twice given Pardue extensions of time to obtain counsel **and** to respond to

Wal-Mart's Motion for Summary Judgment. Both times he failed to do so and he did not provided good cause for either. Therefore, a third extension was not granted. (Doc. #22.)

ANALYSIS

Pardue now asks for reconsideration of this Court's order declining to grant a third extension and identifies the specific discovery that he wishes to conduct. Therefore, in the interest of justice, Pardue is granted leave to conduct the additional limited discovery which entails obtaining and studying each police report identified on a summary that he has obtained from the Miami Township Police Department. Further, Pardue is given until not later than January 3, 2008, to respond to Wal-Mart's pending Motion for Summary Judgment.

No further extensions will be granted. In addition, a response not timely filed will not be considered.

DONE and **ORDERED** in Dayton, Ohio, this Twenty-Fifth day of October, 2007.

s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record

Leslie Pardue